

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HIDDEN HILLS MANAGEMENT, LLC,

Plaintiff,

v.

AMTAX HOLDINGS 114, LLC,

Defendant.

AMTAX HOLDINGS 114, LLC,

Counter-Plaintiff,

v.

HIDDEN HILLS MANAGEMENT, LLC,

Counter-Defendant.

No. 3:17-cv-06048-RBL

DECLARATION OF ERIC S. PETTIT IN
SUPPORT OF AMTAX HOLDINGS 114,
LLC'S OPPOSITION TO HIDDEN HILLS
MANAGEMENT, LLC'S MOTION TO
AMEND AND SUPPLEMENT THE
COMPLAINT

NOTE ON MOTION CALENDAR:
May 25, 2018

DECLARATION OF ERIC S. PETTIT

I, Eric S. Pettit, declare as follows:

1. I am a member of the California bar authorized to practice law in the State of California, and have been granted leave to appear before this Court *pro hac vice*. I am an attorney at Boies Schiller Flexner LLP, counsel for Defendant and Counter-Plaintiff AMTAX Holdings 114, LLC ("Defendant"). I submit this declaration in support of Defendant's Opposition to Hidden Hills Management, LLC's Motion to Amend and Supplement the Complaint. I have personal knowledge of the facts stated herein, and could and would testify competently thereto if called as a witness in this matter.

2. I also represent non-party AMTAX Holdings 169, LLC ("AMTAX 169") in its capacity as Investor Limited Partner in Parkway Apartments, L.P. (the "Parkway Partnership"). Non-party 334th Place 2001, LLC ("334th Place") is the Parkway Partnership's General Partner. The Parkway Partnership is governed by an Amended and Restated Agreement of Limited Partnership (the "Parkway LPA").

3. On March 6, 2018, AMTAX 169 sent a letter to 334th Place stating that it was in the process of evaluating questionable activity by 334th Place in its capacity as General Partner of the Parkway Partnership, including 334th Place's failure to maximize rental income, the disproportionately high growth of operating expenses at the Parkway Apartments, and the payment of fees and distributions to 334th Place and/or its affiliates that were not permitted by or in excess of the amounts permitted by the Parkway LPA. AMTAX 169 explained in the letter that it would address 334th Place's prior purported exercise of its purchase option once AMTAX 169 had completed its review of those issues. I was copied on this letter by email. A true and correct copy of AMTAX 169's March 6, 2018 letter is attached hereto as Exhibit A.

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1 4. On May 8, 2018, I exchanged emails with J. Scott Pritchard, counsel for Plaintiff
2 and Counter-Defendant Hidden Hills Management, LLC. A true a correct copy of this email
3 exchange is attached hereto as Exhibit B.

4 I declare under penalty of perjury under the laws of the Unites States of America that the
5 foregoing is true and correct.

6 Executed May 21, 2018, at Los Angeles, California.

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10 ERIC S. PETTIT
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EXHIBIT A

**ALDEN
TORCH
FINANCIAL**

**VIA EMAIL AND
FIRST-CLASS MAIL**

March 6, 2018

Catherine M. Tamaro
334th Place 2001, LLC
3236 78th Avenue SE, Suite 202
Mercer Island, WA 98040
E-Mail:ctamaro@mindspring.com

Re: *Parkway Apartments, LP (the "Partnership")*

Dear 334th Place 2001, LLC:

AMTAX Holdings 169, LLC ("AMTAX") is the Investor Limited Partner of the Partnership. The respective rights and obligations of the Partners are governed by the Partnership's Amended and Restated Agreement of Limited Partnership (the "Partnership Agreement"). Capitalized terms not otherwise defined herein shall have the meaning given to such terms in the Partnership Agreement.

I write in response to your letter to Chris Blake dated February 15, 2018, which was received on February 21, 2018. Your letter references Section 7.4.J of the Amended and Restated Agreement of Limited Partnership dated as of June 1, 2002 (the "Partnership Agreement"), and claims that "334th Place 2001, LLC has completed its appraisal requirement, and has in hand an appraisal by CBRE dated January 1, 2018." Your letter fails, however, to enclose a copy of the CBRE appraisal, or to provide any information about how it was obtained. Given what we believe and have alleged was bad faith conduct on your part in the appraisal process for the Hidden Hills Apartments—a matter which, as you know, is currently the subject of ongoing litigation—we must have an opportunity to review the CBRE appraisal and understand the circumstances surrounding its preparation. We accordingly request that you send us a copy of the CBRE appraisal referenced in your letter, as well as any communications you had with the CBRE appraiser concerning the Parkway Apartments.

AMTAX is also in the process of evaluating questionable activity by 334th Place 2001, LLC in its capacity as a General Partner of the Partnership, including a failure to maximize rental income, the growth of operating expenses at rates that are

disproportionately higher than comparable properties, and the payment of fees and distributions to 334th Place 2001, LLC and/or its affiliates that either are not permitted by, or are in excess of amounts permitted by, the Partnership Agreement.

AMTAX will address your request to move forward with the appraisal process set forth in Section 7.4.J of the Partnership Agreement once it has completed its review of the issues identified above. Except as specifically stated herein, this letter is not intended and shall not be deemed to be a waiver, election, or estoppel as to any claim, objection, defense, or remedy of AMTAX under the Partnership Agreement and related transaction documents or applicable law.

Very truly yours,

AMTAX Holdings 169, LLC,

By: TCH II Pledge Pool, LLC, its manager

By: Tax Credit Holdings II, LLC, its managing member

By: Alden Pacific Holdings, LLC, its managing member

By: 
Alison Wadle, Executive Vice President

cc (via email only): Chris Blake
Eric S. Pettit, Esq.

EXHIBIT B

Eric Pettit

From: Pritchard, J. Scott <scott.pritchard@stoel.com>
Sent: Tuesday, May 08, 2018 5:27 PM
To: Eric Pettit
Cc: Goodnight, David R.; Latsinova, Rita V.; Christopher Caldwell; Eliza Sweren-Becker; Burman, David J. (Perkins Coie) (DBurman@perkinscoie.com); Merriman, Steven D. (Perkins Coie) <SMerriman@perkinscoie.com> (SMerriman@perkinscoie.com)
Subject: RE: Hidden Hills/Parkway
Attachments: Plaintiff's Motion to Amend and Supplement Complaint (conformed).pdf; Declaration of Pritchard ISO Motion to Amend and Supplement Complaint (c.....pdf; Proposed Order Granting Motion to Amend and Supplement Complaint(conform.....pdf

Eric:

Given your response and the letter you attached to your email below, we filed the motion to amend. Attached are courtesy copies for your records.

Regards,

Scott

Scott Pritchard | STOEL RIVES LLP
scott.pritchard@stoel.com | (206) 386-7585

From: Eric Pettit [<mailto:EPettit@BSFLLP.com>]
Sent: Tuesday, May 08, 2018 2:01 PM
To: Pritchard, J. Scott
Cc: Goodnight, David R.; Latsinova, Rita V.; Christopher Caldwell; Eliza Sweren-Becker; Burman, David J. (Perkins Coie) (DBurman@perkinscoie.com); Merriman, Steven D. (Perkins Coie) <SMerriman@perkinscoie.com> (SMerriman@perkinscoie.com)
Subject: RE: Hidden Hills/Parkway

Scott,

Attached is a letter from Alden Torch Financial that addresses certain issues raised in your proposed amendment. It is my understanding that this letter has been in the works for some time now, but that Alden Torch's investigation was complicated and prolonged by the extent of misconduct that it uncovered. We would appreciate it if your client(s) would consider and address the issues raised in this letter prior to filing your motion to amend.

In any event, we believe that the deadline you imposed for us to respond to your email is both unnecessary and unreasonable, and note that we did not impose such a short deadline (or any deadline at all) when we asked you to stipulate to the amendment of our counterclaims. We question, moreover, whether your proposed amendment is appropriate given that it seeks to add new parties and allegations relating to a completely different property. To the extent that you are determined to move forward with amending your complaint we would ask that you provide us with a draft of your motion to amend before filing so that we can see what, if any, authority you believe supports permitting amendment of your complaint in the manner you propose.

Best,

Eric

Eric S. Pettit

Partner

BOIES SCHILLER FLEXNER LLP

725 South Figueroa Street, 31st Floor

Los Angeles, CA 90017

(t) +1 (213) 629-9040

(f) +1 (213) 629-9022

epettit@bsfllp.com

www.bsfllp.com

From: Pritchard, J. Scott [<mailto:scott.pritchard@stoel.com>]

Sent: Tuesday, May 08, 2018 8:04 AM

To: Eric Pettit

Cc: Goodnight, David R.; Latsinova, Rita V.; Christopher Caldwell; Eliza Sweren-Becker; Burman, David J. (Perkins Coie)

(DBurman@perkinscoie.com); Merriman, Steven D. (Perkins Coie) <SMerriman@perkinscoie.com>

(SMerriman@perkinscoie.com)

Subject: Hidden Hills/Parkway

Eric:

We plan to file the attached proposed amended and supplemented complaint with a motion seeking leave to amend. A redline against the original complaint is also attached. Please let us know if you will stipulate to this amendment. If so, I will circulate a proposed stipulation for your review and signature. If we do not hear from you, we will file the motion to amend by close of business today.

Regards,

Scott

Scott Pritchard

STOEL RIVES LLP | 600 University Street, Suite 3600 | Seattle, WA 98101

Direct: (206) 386-7585 | Fax: (206) 386-7500

scott.pritchard@stoel.com | www.stoel.com

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